

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
AUGUST 27, 2012
5:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on August 27, 2012. Mayor Williams called the meeting to order at 5:30 p.m. and asked Jim Burrow to lead the Pledge of Allegiance. Mayor Williams asked Carol Virden, City Clerk/Treasurer to take roll call. The following were present:

Councilor Holman
Councilor Miller

Councilor Hood
Councilor Perry

Carol Virden, City Clerk/Treasurer informed Mayor Williams there was a quorum.

Also present:

Carol Virden, City Clerk/Treasurer
H. John Underwood, City Attorney

APPROVAL OF AGENDA

Mayor Williams stated next item on the agenda was Approval of Agenda.

Mayor Williams entertained a motion to approve the Agenda.

Councilor Hood moved to approve the agenda. Seconded by Councilor Miller.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

APPROVAL OF CONSENT AGENDA

Mayor Williams stated next item on the agenda was approval of the Consent Agenda.

Mayor Williams entertained a motion to approve the Consent Agenda.

Councilor Miller moved to approve the Consent Agenda. Seconded by Councilor Perry.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

APPROVAL OF MINUTES OF REGULAR MEETING OF AUGUST 13, 2012

Councilor Miller moved to approve the Minutes of the Regular Meeting of August 13, 2012. Seconded by Councilor Perry.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

APPROVAL OF ACCOUNTS PAYABLE

Councilor Miller moved to approve Accounts Payable. Seconded by Councilor Perry.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

APPROVAL OF MONTHLY REPORTS

Councilor Miller moved to approve Monthly Reports. Seconded by Councilor Perry.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

APPROVAL OF COMMITTEE REPORTS

Councilor Miller moved to approve Committee Reports. Seconded by Councilor Perry.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

PUBLIC HEARING

Mayor Williams stated the next item on the Public Hearing agenda was:

Public Hearing: Ordinance No. 2012-05 An Ordinance Amending Title IX "General Regulations" Chapter 93: Parks and Recreation; Amending Section 93.01 Park Established; Enacting New Subsection (G) Under Section 93.02 Use and Conduct Regulations; Amending Section 93.04 Tennis Courts of the City of Ruidoso Downs Code of Ordinances.

Mayor Williams opened the Public Hearing and invited any comments from those present to speak.

There were no comments.

Mayor Williams closed the Public Hearing.

Mayor Williams stated the next item on the Public Hearing agenda was:

Public Hearing: Planning Appeal P & Z Case #2012-01, Shane Walker Appellant. Zoning District R-1, Lot #4, 5 and 6 Block #3 Subdivision Palo Verde.

Mayor Williams opened the Public hearing and invited any comments from those present to speak. They must state their name, state whether for or against, and there would be a three-minute time limit.

H. John Underwood, City Attorney said anyone who would be testifying would need to take the oath because the law says it is a quasi-judicial hearing and is subject to appeal so they would need to put their name on record. He asked those persons to stand.

Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, under penalty of perjury?

Shane Walker and Stephanie Williams said, "I do."

Stephanie Williams said I am for his appeal.

Shane Walker said I appealed this because I feel that I am within my rights. I feel like I've already gone through the steps to get this done. I have a whole list of things I could talk about but I don't even know if I need to bring it up or not.

H. John Underwood, City Attorney told him he needed to make his case.

Shane Walker said the houses around me, all of the houses are either on the property line or off the property line, and some are not within the setbacks. My fence is right on my property line. I have houses next to me that are rent houses and they don't keep up the upkeep and it brings the value of my property down. My house is clean and I keep my yard clean. The City asked me to move some stuff out of my yard and I did. I've done the things you've asked me to do. I have a couple of vehicles that I need to get out of the weather and I want them to be under a carport. If you look at my street and Harris street at night you'll see that everyone parks outside of their property line. I am asking to park inside my property line which my driveway has been there for 18 years. I would like to put a carport in my driveway. Another thing is that there is a type of carport that the City said I'm not allowed to have. I have driven around and seen the carports I'm not allowed to have. Just recently the lots right behind me, they belong to Ray Baker, and they are building metal buildings. Those aren't allowed but they've already built them. I've been trying to get this thing done for a year and a half. It's to the point that I'm tired. I'm tired of waiting. I need my house to get stuccoed, it's an older mobile home and I need to get it sealed up. There are things I'm trying to get done and I'm not getting them done by doing it the right way. I'm trying and trying and not getting anywhere. I've already talked to a lawyer and if I need to I will file a lawsuit. Then the City tells us we have to move everything out of the alley because we're not supposed to have anything in the alley. When I had two of my trucks in the alley I kept it mowed. Now the alley isn't mowed. There is still a tree blocking the alley where can't go through the alley. That was one of the stipulations and I talked to them about it when I moved my stuff out of the alley that you're going to have to have Mr. Harris move his fence because he blocked the alley with his fence. He moved his fence but there is still a tree there and the weeds are bigger than ever now. I'm not going to mow it. I use to maintain the alley for free and never

bothered to complain or anything. Another thing that started recently in the Downs is they started changing addresses. Here I am and have an HCR Box number and I'm starting to get bill collectors call me because I'm not getting my bills. We can't use those Box numbers anymore. Why can't we use those Box numbers? Now since my house faces Harris and not Parnell I have to use 102 Harris Ln. as my address so I had to change my address twice in one month. I think that is pretty much all that I have to say.

H. John Underwood, City Attorney asked if he could ask him a couple of questions? Under the variance ordinance of the City of Ruidoso Downs which is Section 155-025 it states that variances may only be granted for hardships related to physical characteristics of the land and should normally be limited to regulations pertaining to height and width of the structure to the size of the yard and open spaces. During the Planning & Zoning hearing I asked you this question: Your property as I see it on the map consists of lots 4, 5, and 6. Your house faces Parnell so the question is could you build this carport on either of these other two lots? Lots 4 or 6 and come within the setback?

Shane Walker said one of the things as I told you before was that I have plans on doing something with the properties on both sides. I don't understand that just because I have three lots why would you want to penalize me because I have three lots? There are so many lots in Ruidoso Downs that if we went by your stipulations none of these lots would be wide enough for a singlewide trailer like we brought up before. Right now there are still lots that aren't big enough for a singlewide trailer.

H. John Underwood, City Attorney said the law requires you to comply with the setbacks unless you have a special circumstance. That would mean that you can't build your carport somewhere else on the property. It says unless there is a physical disability to areas where you could build your carport that's the only basis on which a variance can be granted and it is a variance you are applying for.

Shane Walker said so it doesn't matter that I'm the only one in my neighborhood that parks inside my property line and that my driveway has been there for 18 years?

H. John Underwood, City Attorney said if the carport had been there for 18 years it would matter but the driveway and putting an additional building on there is when you need to come into compliance with the law. That's just my interpretation and that's why I'm asking if the carport could be built on any of the other land at your house.

Shane Walker asked why are you making me go by the stipulations when you have Pete Baca and the Rue's and other people?

H. John Underwood, City Attorney said he was just asking and wasn't making him do anything and I don't know anything about Pete Baca. I'm just asking if the carport can be built on any other land.

Shane Walker said, "I don't think so."

Mayor Williams asked Mr. Walker if he had anything more?

Shane Walker said no.

Mayor Williams said the Public Hearing was now closed.

UNFINISHED BUSINESS

There was no Unfinished Business.

NEW BUSINESS

Mayor Williams stated the next item on the agenda was – Mayor’s Comments.

Mayor Williams said Patty DeSoto was interviewed by the Community Transportation Association of America the other day. The association deals with the division of America’s Public and Community Transportation future based upon fundamental values owed to the nation itself. She was interviewed here and he said he had a copy here for each of the councilors.

Mayor Williams said he wasn’t here but that Ronnie Randolph with the Parks Department of Public Works was named the Employee of the 2nd Quarter.

Cleatus Richards, Public Works Director said Ronnie is probably one of the oldest employees we have in the department and has been with us probably 20 years. He’s always been a good and conscientious employee, works hard, no complaints and with a constant smile and we enjoy that. I’m very happy that he has been given this.

Mayor Williams said this will be Labor Day weekend and asked everyone to be diligent and careful.

Mayor Williams said the next item on the agenda was – Councilor’s Comments.

Councilor Miller said we have the Quality of Life Gross Receipts Tax coming up and I hope everyone gets out and votes. I noticed today that Alamogordo is going to have it on their ballot in November. I want to remind everyone that it will not apply to goods and services like food, prescription drugs, gas and rent. It is caring for your community because it will help non-profit organizations, cultural affairs, libraries, museums and anything educational or cultural which our town can use.

Mayor Williams asked Chief Babcock to talk about an event at All American Park this weekend.

Chief Babcock said they had the Survivor Clean & Sober Motorcycle Rally at All American Park this Saturday. They had a two-hour ride that encompassed the Billy the Kid Scenic Byway and were back at the park around 1:00. There was live music during the day until they got rain and lightning. We had to cancel the Motorcycle Rodeo and the Bed Race due to the

inclement weather. However, we managed to raise \$233 for the park improvement fund. Most of the Bed Race teams were part of the motorcycle organization and said they would donate the money what they would have spent with the entry fees to the parks. They enjoyed the venue and this was a southern one for the region and they want to do their national run here next year. They had 78 motorcycles that ran on the two hours.

Mayor Williams thanked Chief Babcock for ram roding the event and last year too. It was great exposure for Ruidoso Downs.

Mayor Williams stated the next item on the agenda was - Consider Approving Resolution No. 2012-05 Amendments to Title IX "General Regulations" Chapter 93: Parks and Recreation.

Mayor Williams entertained a motion to adopt Ordinance No. 2012-05 Amendments to Title IX "General Regulations" Chapter 93: Parks and Recreation.

Councilor Miller moved to adopt Ordinance No. 2012-05 Amendments to Title IX "General Regulations" Chapter 93: Parks and Recreation. Seconded by Councilor Hood.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

Mayor Williams stated the next item on the agenda was - Consider Upholding Planning & Zoning Commission Decision to deny Variance for Shane Walker.

Mayor Williams entertained a motion to Uphold Planning & Zoning Commission Decision to deny Variance for Shane Walker.

Councilor Holman moved to uphold Planning & Zoning commission decision to deny variance for Shane Walker. Seconded by Councilor Hood.

Councilor Miller said I went by to look at this about a month ago and talked to Steve about it. There is a 21-foot easement from the road to his property and that is very unusual. I looked at easements throughout my neighborhood and the City. There is from 0 to 12 feet. I think it is very unusual and a hardship on him from the road to his property line. I feel like in some way his property was taken from him and a hardship on him to tell him to put the carport on a different lot. What if he wants to sell those lots? The idea to have your carport close to your house is the weather and getting into your house quicker. There were ten letters sent out to neighbors and no one has come forth to disagree with him building this.

Steve Dunigan, Planning & Zoning Director said they sent out the same letters for the appeals as for the original Planning & Zoning case and there were no responses at all.

Councilor Perry said I don't see a problem either and it's the way it's set up and how it is. I know we have ordinances but I see that it could be a hardship.

Councilor Miller said I see decks and stairs that go out into the easement and this is not a permanent structure.

Roll call votes: Councilor Holman, Nay; Councilor Hood Nay; Councilor Miller, Nay; Councilor Perry, Nay. Motion carried with nays.

OTHER BUSINESS

(Items are for discussion only - no action will be taken)

There was no Other Business.

PUBLIC INPUT

(All concerns to be addressed only to the Governing Body as a Whole with a 3-minute Time Limit)

Pam Williams said I live in Ruidoso Downs and thank you for that because the ordinances and all, one goes for one and not for all. The man deserves to have it. Just like the Transit System we are so proud of, it still goes beyond the City limits, it goes on into the County, still don't see a permanent schedule to route and I find it just disgusting. You'll do some of the laws sometimes, and it depends on who you're going to deal with and then we don't do it with others. I'm ashamed and it hurts.

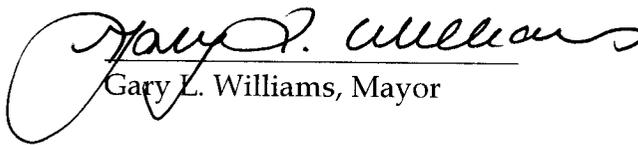
ADJOURNMENT

There being no further business to attend to, Mayor Williams adjourned the meeting at 6:00 p.m.





Carol Virden, City Clerk/Treasurer



Gary L. Williams, Mayor